

## INMATE TELECOMMUNICATION LOCATION AGREEMENT

This Inmate Telecommunication Location Agreement ("Agreement") is made as of the Effective Date (defined below), by and between Sweetwater County Jail, whose principal address is 50140 South Hwy 191 South, Rock Springs, WY 82901, ("Customer") and Telmate, LLC ("Telmate").

*WHEREAS*, Telmate is engaged in the business of operating, vending, and maintaining coin operated and non-coin operated inmate electronic communications equipment and systems ("Equipment") and,

*WHEREAS*, Customer desires to utilize the service, expertise, and Equipment of Telmate,

*NOW, THEREFORE*, in consideration of the mutual promises and covenants set out herein, Telmate and Customer hereby agree as follows:

1. **Agreement.** Customer grants to Telmate the exclusive right and license to install, implement, maintain, and derive revenue from the use of Equipment located at an incarceration facility commonly known as Sweetwater County Jail, and whose physical address is 50140 South Hwy 191 South, Rock Springs, WY 82901 ("Facility"). Customer appoints Telmate as its exclusive inmate communications agent, charged and authorized with making changes, implementing and updating features, and otherwise establishing such functionality and taking such steps which Telmate considers, in its sole discretion, in best interest and designed to keep Facility using the best features with a state-of-the-art, leading system.

2. **Term.** This Agreement shall commence on the date of last signature by a party below (the "Effective Date") and shall end three (3) years from the latter of (a) sixty (60) days after the Effective Date or (b) the date that Facility begins or switches over to using, and notifies Telmate of its acceptance of, Telmate Equipment ("Initial Term"). If the normal business operation of the Facility is interrupted for any reason (e.g., due to act of God, an inmate riot, or strike) the expiration of the Term of this Agreement shall be extended for a period of time equal to the period of such interruption or stoppage of business operations.

3. **Renewal.** After the Initial Term, this Agreement shall automatically renew for one (1) additional terms of two (2) years time period thereafter (a "Renewal Term"), upon the terms and conditions herein set forth, unless written notice is sent by either party at least sixty (60) days prior to the end of the Initial Term (the Initial Term together with any Renewal Term collectively comprise the "Term"). The parties may extend the Agreement thereafter by mutual consent. Customer agrees to provide Telmate advance written notice 180 days prior to Customer releasing any RFP that includes all or part of Equipment or services offered by Telmate, during the Initial Term or any applicable Renewal Term.

4. **Initial Investment.** The parties recognize that Telmate has invested or shall invest significant up-front resources, infrastructure and Equipment in establishing and maintaining the electronic communications at Facility. Such business model relies on a service term of a length in order for Telmate to recoup such investment and costs without otherwise requiring up-front or any payment from Customer. As such costs would be difficult if not impossible to determine,

the parties agree that if this Agreement is not renewed or terminated by Customer, or any functionality of the Equipment is prevented or disabled by Customer, other than due to Telmate's breach as set forth in Section 11 below, Customer shall pay to Telmate the fees set forth in **Schedule B** hereof.

5. **Commissions.** In consideration for the right to install, maintain, and operate the Equipment within the Facility, Telmate agrees to pay Customer a monthly commission of **thirty percent (30%)** of the Gross Revenue generated as a result of collect phone calls and a monthly commission of **thirty percent (30%)** of the Gross Revenue generated as a result of pre-paid phone calls made through use of Telmate's Equipment. Telmate shall pay such commissions on all calls including Local, Intralata, Interlata, Interstate, and International calls. Commissions will be based on Revenues from all completed calls. Gross Revenue excludes Taxes, Government Imposed Fees or Charges, and any applicable Billing or Security Fees. Such commissions shall be paid by Telmate to Customer by check on a monthly basis. Such payment shall be made no later than 45 days following the month in which the revenues were generated from Telmate's Equipment. Said commissions checks will be made payable to Customer and mailed to Customer's address set forth above. All such commission payments shall be final and binding unless written objection thereto is received by Telmate from Customer within thirty (30) days of payment by Telmate to Customer.

6. **Amount and Location of Equipment.** The exact location(s) of the Equipment at Customer's Facility shall be as per the mutual written agreement of the parties hereto.

7. **Rates.** The parties to this Agreement shall mutually agree on the initial rates charged for any and all collect calls and any and all prepaid calls made with the use of the Equipment. The rates shall be set out in the **Schedule A** attached to this Agreement incorporated herein by reference. Rates for any new features or Equipment not yet established above shall be set by Telmate with input and assistance by Customer.

8. **Exclusivity.** During the Term of this Agreement, Customer grants to Telmate the exclusive right and license to install, maintain, and operate communication Equipment governing all inmate calls and electronic communications, including but not limited to local, long distance and international, including but not limited to collect calls, debit calls, within any facility owned or operated by Customer. During the Term of this Agreement Customer shall not provide to any third party access to Telmate's Equipment.

9. **Maintenance of Equipment.** During the Term of this Agreement, Telmate will repair and maintain its Equipment in good operating condition and shall exclusively maintain its Equipment in such condition by furnishing all necessary parts and labor reasonably necessary for the successful operation of the equipment. Telmate has the exclusive access to open, adjust, remove, disconnect, repair, replace, or alter the Equipment. Customer shall permit employees or contractors of Telmate reasonable access in order to provide such service, repair, and maintenance on Equipment. Telmate's Equipment shall remain the property solely of Telmate. Upon termination of this Agreement, Telmate shall have the right to enter upon the premises to remove the Equipment. Customer shall notify Telmate of any misuse, destruction, damage, or vandalism to the Equipment as soon as practicable. Customer shall exercise reasonable care to prevent damage or destruction of Telmate's Equipment.

**10. Surveillance.** Telmate and Customer realize and agree that the Equipment may allow Customer to monitor, eavesdrop, and/or otherwise record inmate's use of the Equipment. Customer understands and agrees that Telmate has made no warranties, express or implied, as to the legality of such monitoring and/or eavesdropping, and will indemnify and hold harmless Telmate from and against any claims, damages, loss or injury associated with Customer or Customer's agent's monitoring, eavesdropping or otherwise recording such use.

**11. Default and/or Termination of Agreement.** If Customer or Telmate defaults in its performance of any obligations hereunder, the non-defaulting party may notify the defaulting party in writing of such default with specific attention to detail. The defaulting party must cure such default within sixty (60) days from receipt of notice of default, otherwise the non-defaulting party shall have the right to terminate this Agreement and pursue all legal and equitable remedies available to the non-defaulting party. If any governmental tax, fee, regulation, or tariff, or any other law prevents Telmate from providing the services agreed to hereunder or makes the continuation of this Agreement economically impracticable then Telmate may, at its own discretion, terminate this Agreement without liability. On any termination of this Agreement, Customer shall allow Telmate reasonable access to facility in order to remove equipment, including electrical and Ethernet wiring and conduits. Telmate agrees to remove their equipment within 30 days after such termination.

**12. Liability Indemnification.** Customer assumes the risk of liability arising from or pertaining to its possession, operation, or use of Equipment. Customer shall indemnify and hold Telmate harmless from and against any and all claims, costs, expenses, damage, and liabilities, arising from or pertaining to its use, possession, or operation of Equipment. Telmate does not assume any liability for any acts or omissions of Customer or Customer's agents, or employees. Customer hereby releases Telmate and agrees to indemnify Telmate and hold Telmate harmless from any and all claims against Customer of any kind or nature whatsoever, arising out of or resulting from the use and/or operation of the Equipment by Customer or the inmates, or prior vendors of the Equipment, including any expenses and attorney's fees which Telmate may incur in defending any such claims. Customer shall indemnify and hold Telmate harmless from any and all liability, loss, damage, expense, causes of action, suits, claims or judgments arising from injury to person or property resulting from or based upon the actual or alleged use or operation, of any or all of the Equipment, and shall at its own cost and expense defend any and all judgments and fines that may be recovered against Telmate in any such action or actions, provided, however, that Telmate shall give Customer written notice of any such claim or demand.

**13. Confidentiality.** Customer acknowledges that in the course of discussions leading up to this Agreement, and in performing the work and installing the Equipment pursuant to this Agreement, Telmate may make information available to Customer or Customer may otherwise learn of trade secret or confidential information of Telmate (collectively, "Confidential Information"). Confidential Information includes all Telmate or its vendors' information not generally known or used by others and which gives, or may give, Customer or a third party an advantage over its competitors or which could cause Telmate or its vendors injury, embarrassment, or loss of reputation or goodwill if disclosed. Such information includes, but is not necessarily limited to, the Equipment provided by Telmate, data of Telmate which identifies

or concerns past, current or potential customers or employees, information about business practices, financial results, research, development, systems and plans, and/or certain information and material identified by Telmate as "Confidential". Confidential Information may be written, oral, recorded, or on tapes, disks or other electronic media. Because of the sensitive nature of the information that Customer and its personnel may become aware of as a result of this Agreement, the intent of the parties is that these provisions be interpreted as broadly as possible to protect Telmate's Confidential Information.

Customer specifically acknowledges and agrees that the Equipment and proprietary Software platform furnished by Telmate is Confidential Information, is owned by Telmate, is considered a proprietary trade secret and is a matter of strict confidentiality. Customer also acknowledges that the unauthorized use or disclosure of any Confidential Information, including but not limited to the Equipment and proprietary Software platform, will cause irreparable harm to Telmate. Accordingly, Customer agrees that Telmate shall be entitled to equitable relief, including injunction and specific performance without the necessity of posting a bond, in addition to all other remedies available at law or in equity for any threatened or actual breach of this Agreement. Notwithstanding any other provision of this Agreement, Customer agrees that, in the event Telmate terminates this Agreement due to a breach by Customer of any or all of these Confidential Information provisions, then Customer shall: (a) be responsible for all Telmate attorney fees resulting from the enforcement of these provisions; (b) pay to Telmate the amount of revenue that Telmate would have received under this Agreement but for the termination (as such amount is determined by Telmate in its sole discretion); (c) pay to Telmate all revenues generated by Customer as a result of Customer's use of the Confidential Information; and (d) pay all other damages, whether direct or indirect, as such damages are determined by a court of competent jurisdiction.

**14. Authority.** Customer and Telmate warrant and represent to each other they have the authority to enter into this binding Agreement and to bind themselves to such Agreement.

**15. Assignment.** Customer may not sell, lease, assign, or otherwise transfer any of the rights or obligations hereunder to a third party without the prior written agreement of Telmate. Telmate may sell, lease, assign, or otherwise transfer any of its rights or obligations hereunder to any third party on thirty (30) days written notice to Customer.

**16. Notices.** All notices provided for in this Agreement shall be in writing and shall be sent Certified Mail, Return Receipt Requested, or by other reputable overnight carrier, to the parties at the addresses set out above or any other address as specified by a party by prior written notice to the other party. Said notice shall be deemed received upon receipt thereof by addressee.

**17. Entire Agreement.** This Agreement sets forth the entire understanding of Telmate and Customer and supersedes all prior agreements, arrangements, and communications, whether oral or written with respect to the subject matter herein. This Agreement may be modified or amended only in writing signed by both Parties.

**18. Miscellaneous.** This Agreement shall be construed under and governed by the laws of the State of Wyoming. Proper venue shall only be the courts of Wyoming. No waiver by

either party of any event of default under this Agreement shall operate as a waiver of any subsequent default under the terms of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, the validity or enforceability of other provisions shall remain unaffected. This Agreement shall be binding upon and inure to the benefit of Customer, and Telmate, and Telmate's successors and assigns. This Agreement cannot be modified other than by written instruments signed by Customer and Telmate.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**CUSTOMER**

Sign: [Signature]  
Name: Wally J. Johnson  
Title: Chairman  
Date: November 6, 2012

**TELMATE**

Sign: [Signature]  
Name: Kevin O'Reilly  
Title: President  
Date: 11/16/12

**SCHEDULE A  
RATES**

1. The Local rate for any and all Collect Calls will be \$0.50 connect charge and \$0.50 per minute up to 10 Minutes.
2. The Local rate for any and all Pre-Paid calls will be \$0.50 connect charge and \$0.50 per minute up to 10 Minutes.
3. The Intralata rate for any and all Collect Calls will be \$0.50 connect charge and \$0.50 per minute up to 10 Minutes.
4. The Intralata rate for any and all Pre-Paid calls will be \$0.50 connect charge and \$0.50 per minute up to 10 Minutes.
5. The Interlata rate for any and all Collect Calls will be \$0.50 connect charge and \$0.50 per minute up to 10 Minutes.
6. The Interlata rate for any and all Pre-Paid Calls will be \$0.50 connect charge and \$0.50 per minute up to 10 Minutes.
7. The Interstate rate for any and all Collect Calls will be \$0.50 connect charge and \$0.50 per minute up to 10 Minutes.
8. The Interstate rate for any and all Pre-Paid Call will be \$0.50 connect charge and \$0.50 per minute up to 10 Minutes.

\*\*\*\*\*Call Rates shown do not include a pass through of Local, County, State and Federal Taxes, and mandated Universal Service Fund Fees

- 1 lobby kiosk(s)
- 1 booking kiosk(s)
- 25 inmate phones(s)
- 9 video visitation station(s)
- 1 mobile video visitation station(s)

## **SCHEDULE B**

### **INVESTMENT RECOUPMENT**

As set forth in Section 4 of the Agreement, the parties recognize that Telmate has invested or shall invest significant up-front resources, infrastructure and Equipment in establishing and maintaining the electronic communications at Facility. In the event of termination or non-renewal by Customer, other than due to Telmate's breach as set forth in Section 11 of the Agreement, Customer shall pay to Telmate the following fee, based on how far into the Agreement the termination occurs:

Termination between...

Effective Date and 1 <sup>st</sup> anniversary:	<u>\$260,525.00</u> ("Recoupment Fee")
1 <sup>st</sup> and 2 <sup>nd</sup> anniversaries:	80% of Recoupment Fee
2 <sup>nd</sup> and 3 <sup>rd</sup> anniversaries:	60% of Recoupment Fee
3 <sup>rd</sup> and 4 <sup>th</sup> anniversaries:	40% of Recoupment Fee
4 <sup>th</sup> and 5 <sup>th</sup> anniversaries:	20% of Recoupment Fee
5 <sup>th</sup> anniversary onward:	0% of Recoupment Fee

Payment shall be due forty-five (45) days after the date of termination or non-renewal, or invoice by Telmate, whichever occurs first.